IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 13TH DECEMBER 2007 / 22ND AGRAHAYANA 1929

WP(C).No. 36824 of 2007(H)

PETITIONER:

K.C.JOSEPH, KALLAKAVUNKAL, UDAYAGIRI P.O ALAKODE, KANNUR DT.

BY ADV. SRI.SUBHASH SYRIAC

RESPONDENTS:
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1. **THE KERALA STATE FINANCIAL ENTERPRISES LTD., 'BHADRATHA', P.B.NO.510, THRISSUR – 20, REPRESENTED BY ITS MANAGING DIRECTOR.**

2. **THE BRANCH MANAGER, THE KERALA STATE FINANCIAL ENTERPRISES LTD., KANNUR 2ND BRANCH, KAUSER COMPLEX, KALTEX, KANNUR.**

3. **THE SPECIAL DEPUTY TAHSILDAR (R.R), THE KERALA STATE FINANCIAL ENTERPRISES LTD., KAUSER COMPLEX, KALTEX, KANNUR.**

4. **THE DISTRICT COLLECTOR, KANNUR.**

BY GOVERNMENT PLEADER SRI. MATHEW GEORGE VADAKKEL
BY SRI. CHANDRAMOHANDAS, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI,J.

W.P (C) No. 36824 of 2007

Dated this the 13th December, 2007

J U D G M E N T

The petitioner was a subscriber to a chit conducted by the 1st respondent. He had availed a chitty loan for an amount of Rs.2,80,000/-. The chit was later prized for an amount of Rs. 4,20,000/- and an amount of Rs. 3,12,505/- was adjusted towards the loan transaction. There was default in repayment of the loan and Exhibit-P1 notice was issued demanding an amount of Rs.2,59,946/-. The petitioner then sought for clearing the liability under the One Time Settlement Scheme and submitted Exhibit-P2 in this regard. The same was considered by the 1st respondent and by Exhibit-P4 they have intimated the petitioner that the balance amount to be remitted is Rs.4,54,079/- which includes Rs.22,704/- by way of Government collection charges at 5%. The petitioner is aggrieved by Exhibit-P4 to the extent to which collection charges are demanded. The petitioner is ready to remit the balance amount demanded under Exhibit-P4.

2. As per the decision of this Court in **Bhaskaran Vs. Sub Registrar** [2005 (3) KLT 150], recovery of collection charges, in circumstances where there was no attachment or sale of property, pursuant to the requisition cannot be justified. The same view has been taken by this Court in several other cases. May be the 1st respondent

might have sent a requisition to the recovery officials. But collection charges can be recovered only if there is an attachment and sale of property under the Revenue Recovery Act. The principles laid down by this Court in the aforementioned decision applies to the present case also.

In the result, this writ petition is disposed of in the following terms, after hearing counsel on both sides:

i) The petitioner may remit the amount demanded under Exhibit-P4 less the amount shown as Government collection charges on or before 31.12.2007.

ii) On receipt of the said amount within the time aforementioned, the 1st respondent shall treat the loan account as closed and intimate the same to the recovery officials within one month thereafter.

iii) On receipt of such intimation the 4th respondent shall verify whether there was attachment and sale of any immovable property pursuant to the requisition. If there has been any such attachment and sale, proportionate recovery changes can be realised. Intimation in this regard may be given to the 2nd respondent, under copy to the petitioner.

iv) If there has not been such attachment and sale, then recovery changes cannot be collected and recovery officials shall treat the requisition as satisfied and intimate the same to the 2nd respondent under copy to the petitioner.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007